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Letter dated 16 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Côte d'Ivoire, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: French]

Note verbale dated 3 January 2002 from the Permanent Mission of Côte d'Ivoire to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Côte d'Ivoire to the United Nations presents its compliments to the secretariat of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to transmit to it herewith the report of the Ivorian Government on terrorism, submitted pursuant to Security Council resolution 1373 (2001) (see enclosure).

Enclosure

Report of the Ivorian Government on terrorism, submitted pursuant to Security Council resolution 1373 (2001)

Introduction

As part of the measures decided by the United Nations Security Council following the attacks of 11 September 2001, a committee was established to monitor the implementation of resolution 1373 (2001).

In accordance with the obligation incumbent on every State, the Government of Côte d'Ivoire hereby submits to the Counter-Terrorism Committee its report on measures in place and contemplated to give effect to the provisions of resolution 1373 (2001).

This document covers current measures and future initiatives requiring external assistance.

I. Current measures

A. National juridical norms

(a) Criminal offence

Although domestic legislation contains no reference to the concept of terrorism, it does refer to assault. Thus, article 158 of the Ivorian Penal Code — concerning assault — stipulates that an assault is punishable by life imprisonment if aimed at:

- Destroying or changing the constitutional regime;
- Inciting citizens or residents to take up arms against the State authority or against one another;
- Violating the nation's territorial integrity;
- Organizing massacre or devastation.

Furthermore, article 27 of the Penal Code, which makes the co-perpetrator and accomplice to an assault liable to the same punishment as its perpetrator, stipulates that an accomplice to a criminal offence is a person who, without playing a direct or decisive role in its realization:

- Issues instructions for its commission or is involved in its realization by means of gifts, promises, threats, abuse of authority or power or illicit plotting or ruses;
- Procures any item for the purposes of the act, such as a weapon, tool or piece of information;
- Knowingly aids or abets the perpetrator or co-perpetrator of the offence, whether directly or indirectly.

(b) Economic offence

The Ivorian authorities have also established economic offences for the purpose of prosecuting persons suspected of illegal activities.

We are thus able to cite economic offences, such as illegal transfers of funds abroad, failure to report industrial or commercial profits, failure to report the transfer of earnings, the unauthorized payment of imports and deliberate bankruptcy.

For the importation and sale of weapons and ammunition an administrative permit is required under the provisions of Decree No. 93-313 of 11 March 1993 for the implementation of Act 91-999 of 27 December 1991 on competition that govern the conditions for the entry into Côte d'Ivoire of foreign goods of any source or origin and the conditions for the exportation and re-exportation of goods.

These provisions are supplemented by Act No. 98-749 of 23 December 1998, which incorporates sanctions for all breaches of regulations concerning weapons and ammunition.

(c) International commitments

Côte d'Ivoire has signed and ratified four conventions in the field of counter-terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed in Tokyo on 14 September 1963;
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed in The Hague on 16 December 1970;
- International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted in Montreal on 1 March 1991.

Furthermore, on 17 December 2001, the National Assembly of Côte d'Ivoire authorized ratification of four conventions relating to terrorism:

- Convention on the Safety of United Nations and Associated Personnel, adopted on 9 December 1994 in New York;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;
- International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999;
- International Convention for the Suppression of Terrorist Bombings, adopted on 15 December 1997 in New York.

Lastly, at the next parliamentary session, in April 2002, the Ministry of State with responsibility for Foreign Affairs will embark on the process of ratifying three conventions and one protocol:

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, signed in Rome on 10 March 1988;

– Protocol on the Suppression of Unlawful Acts against the Safety of Platforms Located on the Continental Shelf, signed in Rome on 10 March 1998;

– Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed in Montreal on 23 September 1971;

– Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 3 March 1980.

It should be noted that, pursuant to the Ivorian Constitution, international conventions and treaties, once duly ratified, take priority over national laws. Such is the case with regard to conventions on terrorism, which are incorporated in domestic legislation and take effect as from the date of the relevant issuing decree.

Bilateral agreements are implemented on a basis of reciprocity.

B. Banking measures

Côte d'Ivoire applies the instructions issued by the Central Bank of West African States (BCEAO) requesting commercial banks and financial institutions to implement precautionary measures with a view to the detection and scrutiny of potential terrorist assets (annexes 1 and 2).

(a) Asset freezing

Domestic legislation does not provide specifically for the freezing of assets. However, Côte d'Ivoire is prepared to freeze assets, even in the absence of such a stipulation, on the basis of its international commitments. For the time being, the adoption of precautionary measures by BCEAO and their application by banks and financial institutions make it possible to compensate for any lacunae in Ivorian legislation.

Pursuant to article 42 of Act No. 90-589 of 25 July 1990 on banking regulations, assets may be frozen (annex III).

(b) Exchange of banking information

Act No. 90-589 of 25 July 1990 on banking regulations stipulates, in article 19, that persons involved in the direction, administration, management, oversight or operation of banks and financial institutions are held to professional confidentiality and that these same persons are prohibited from making use of confidential information obtained in the course of their professional duties to conduct transactions for their own benefit or for the benefit of others.

Such are the legal constraints preventing the Ivorian authorities from exchanging banking information with foreign authorities.

However, exchanges of banking information are permitted in certain circumstances. Article 42, paragraph 4, of the same Banking Act stipulates that professional confidentiality cannot be invoked against the interests of the Banking Commission, the Central Bank or any juridical authority acting in the context of penal proceedings.

The procedure for requesting banking information by foreign authorities requires the submission of a letter rogatory to the appropriate judicial authority.

C. Other measures

Following the events of 11 September 2001, the Office of the President of the Republic issued a communiqué in which the Ivorian Head of State, His Excellency Laurant Gbagbo, condemned those acts and appealed to all States to contribute to the maintenance of international peace and security.

Moreover, Côte d'Ivoire participated at the highest (President of the Republic) level in the Dakar counter-terrorism summit (17 October 2001), thus demonstrating the Government's willingness to cooperate, at the subregional and regional levels as well as at the international level, in efforts to prevent and combat international terrorism.

To that end also, Côte d'Ivoire has established a mechanism for rapid information exchange with other States. In 1997, it concluded a cooperation agreement with the United States of America, which led to the creation of a counter-terrorist unit.

Furthermore, the francophone countries of West Africa have been exchanging operational information ever since they became independent.

(a) Movement of persons

The establishment of the National Identification Office has supplemented and strengthened existing mechanisms for monitoring entries into and departures from Ivorian territory as well as travel documents.

The National Identification Office should be able, through information gathering and secure data storage, to maintain surveillance over migratory flows, travel documents and documents relating to civil status.

(b) Handling of refugees

The juridical instruments used to grant refugee status are the Geneva Convention of 1951 and the Organization of African Unity Convention of 1969.

Upon receipt of an applicant's file, the security services of Côte d'Ivoire and Interpol in the country of origin are contacted for the purposes of opening an investigation into the applicant's record.

If the applicant is wanted for genocide, a crime against humanity, a war crime, offences under ordinary law or economic offences, the National Eligibility Commission cancels the right to asylum.

It should be noted that the National Eligibility Commission comprises members of the following bodies:

- Ministry of State with responsibility for Foreign Affairs;
- Ministry of Justice and Civil Liberties;
- Office of the High Commissioner for Refugees (observer);

– Department of Territorial Oversight;

– Office for Aid and Assistance to Refugees and Stateless Persons (SAARA).

(c) Travel documents

The issuance of ordinary and official passports is governed by conditions stipulated in the laws and regulations that the National Identification Office is responsible for implementing in accordance with the current requirements.

The issuance of official passports is subject to the provisions of Decree 2000-592 of 17 August 2000 (annex 4).

Application for a passport requires the submission of civil status and administrative documents attesting to the identity and status of the applicant.

Ordinary and official passports currently issued by Côte d'Ivoire comply with the security norms adopted by the International Civil Aviation Organization.

II. Measures contemplated

A. National juridical norms

At the domestic level, the Government of Côte d'Ivoire is committed to drawing up specific legislation on counter-terrorism that defines terrorist offences and lays down the relevant sanctions.

B. Banking measures

Reference should be made to the terms of the letter from the Governor of the Central Bank of West African States (BCEAO) to the Ministers of Economy and Finance of the States members of the West African Economic and Monetary Union (WAEMU) recommending that BCEAO/WAEMU consultations should be held in the near future with a view to elaborating draft regulations on the detection and oversight of accounts belonging to persons or bodies with terrorist links and on the monitoring of exchange operations for transfers of funds abroad.

C. Security measures

On the proposal of the Ministry of State responsible for Defence and Civil Protection of Côte d'Ivoire, a new mechanism for combating cross-border crime and terrorism in all its forms is being evolved to replace the obsolete Agreement on Non-Aggression and Assistance in Matters of Defence.

III. Assistance required

Given the multifaceted and complex nature of terrorism, Ivorian legislation may appear inadequate for suppressing this scourge. Legislative reform would thus be necessary to take account of the other specific aspects of terrorism.

To that end, Côte d'Ivoire should have access to international assistance in the area of training, to meet its requirements of expertise in legal, banking and police matters.

As regards logistics, the international community should provide resources to Côte d'Ivoire for the implementation of Security Council resolutions (annex 5).

The Government of Côte d'Ivoire is committed to cooperating in every way possible with the Committee to ensure that efforts to combat international terrorism impact positively on the maintenance of international peace and security.